

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Petition for Declaratory Ruling to Clarify)	
Provisions of Section 332(c)(7)(B) to Ensure)	WT Docket No. 08-165
Timely Siting Review and to Preempt Under)	
Section 253 State and Local Ordinances that)	
Classify All Wireless Siting Proposals as)	
Requiring a Variance)	

COMMENTS OF CITY OF ALBUQUERQUE, NEW MEXICO

These Comments are filed by the City of Albuquerque, New Mexico ("Albuquerque") in support of the comments filed by the National Association of Telecommunications Officers and Advisors, the United States Conference of Mayors, the National League of Cities, the National Association of Counties and the American Planning Association ("Petitioners"). Like Petitioners, the City of Albuquerque believes that the Commission should reconsider the thirty-day review for completeness deadline and, if not eliminate it, at least clarify its application. The reasonableness of the 90 and 150 day time periods is significantly affected by the limitation on the City to toll those periods while further information is sought. In support of this belief, we wish to inform the Commission about the facts of wireless telecommunications facilities (WTF) applications in our community and reiterate the practical and procedural problems discussed in the Petition. These Comments will avoid repeating the legal arguments concerning the Commission's Rulemaking authority in this regard.

Albuquerque's WTF siting ordinance is set out in the City's Zoning Code and is administered by the City's Planning Department. Currently, the application is submitted to

personnel at the Planning Department front counter. While the City is in the process of revamping its procedures in an effort to comply with the Commission's Declaratory Ruling, the process has been to circulate the applications for review by the hydrology, transportation, and utility divisions before reaching the Senior Planner for the completeness and substantive review. This circulation takes an average of two weeks of the allotted thirty days. In the event the thirty-day limitation is maintained, it is likely that Albuquerque will institute a policy of rejecting at the Planning Department front counter those applications that are facially deficient.

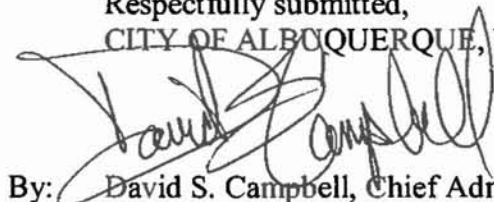
After review by the hydrology, transportation and utilities divisions, the Senior Planner does an initial review for completeness but also begins immediately to focus on the substance of the application. The review for completeness and the substantive review are done concurrently in order to facilitate an expeditious review with the goal of achieving a successful WTF siting. If there is a thirty-day limitation for a completeness review, then following that thirty days, if the planner concludes that without additional information the application must be denied, then that is what will happen. The application will be denied and the applicant will need to either appeal the denial or begin again with a new application causing both a time delay in the siting process and the financial expense of an additional application fee. Without being able to seek the additional information, the opportunity to proceed to a successful granting of the application will be precluded.

The Commission's Declaratory Ruling does not address time frames following responses to requests for additional information within the first 30 days. The City of Albuquerque would like the Commission to clarify that the 90 day and 150 day shot clocks are "reset" to zero each time a governmental entity needs to begin a review of new material submitted to remedy a facially deficient application.

As was pointed out by Petitioners, because it was not sought by CTIA's petition, nor discussed in any comments prior to the Commission's Declaratory Ruling of November 18, 2009, the practical but unintended consequences discussed above could not be raised to the Commission. Fairness as well as the desire for the best outcome and the greatest likelihood of successful WTF sitings require that the process allow for the greatest input of information on the practical and procedural effect of Commission Orders.

In conclusion, the City of Albuquerque concurs with Petitioners in seeking reconsideration of the thirty-day limitation on reviews for completeness for WTF siting applications. As stated in the Petition and emphasized above, the thirty-day deadline will result in a more rigid process with increased application denials.

Respectfully submitted,
CITY OF ALBUQUERQUE, NEW MEXICO



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